

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Assembly Ag Committee Analyst: Colin Stevens Bill Number: AB 1641

Related Bills: See Prior Analysis Telephone: 845-3036 Amended Date: 5/10/99

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Agricultural Prunings Delivered to Biomass Conversion Facility Credit

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

X FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED MARCH 4, 1999, STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would allow a credit equal to \$30 for each ton of agricultural prunings grown in California and delivered without charge to a biomass facility in a form suitable for biomass conversion. The credit would be certified by the Department of Food and Agriculture (DFA) and allowed only to the grower of the agricultural prunings.

SUMMARY OF AMENDMENT

The May 10, 1999, amendments provide that a credit may not be taken for any costs for which the taxpayer has taken a deduction in the taxable or income year.

This amendment created an implementation concern. With this addition, the department's prior analysis of the bill as introduced March 4, 1999, still applies. The department's implementation and technical concerns are provided below for convenience.

Implementation Considerations

The language specifying that a credit may not be taken for any costs for which the taxpayer has taken a deduction conflicts with a provision in the same subdivision, which specifies that a deduction for transportation costs shall be reduced by the amount of credits allowed. Further clarification as to the author's intent with respect to the disallowance of deductions will be needed to properly implement the bill.

Board Position:

<u> </u> S	<u> </u> NA	<u> </u> NP
<u> </u> SA	<u> </u> O	<u> </u> NAR
<u> </u> N	<u> </u> OUA	<u> X </u> PENDING

Department/Legislative Director Date

Johnnie Lou Rosas **5/21/1999**

According to DFA staff, that department would need to adopt regulations defining agricultural prunings before this bill could be implemented. The process of adopting regulations could create a delay between the time the bill is enacted and the time it could be implemented.

Technical Considerations

The credit under the PITL lacks a portion of one sentence. Amendment 1 would add this portion so that the law is identical under the PITL and the B&CTL.

The definition of "grower" includes both an "owner" and an "operator" of an agricultural facility. If the owner of an agricultural facility is not also the operator of that facility, it is arguable that both the owner and operator, under the terms of this bill, would be entitled to the credit. The authors may wish to clarify their intent with respect to which of these two parties is to receive the credit if the owner is not also the operator.

BOARD POSITION

Pending.

Analyst	Colin Stevens
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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1641
As Amended May 10, 1999

AMENDMENT 1

On page 2, line 24, strikeout "subdivision (a)" and insert:

subdivision (a), based upon records and other information submitted by the taxpayer to the department.